UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,010	10/06/2000	William W. Smith III	PSTM0002/MRK	9819

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EXAMINER
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ART UNIT	PAPER NUMBER
3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/684,010	SMITH ET AL.
	Examiner	Art Unit	
	JAMISUE A. PLUCINSKI	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>13 December 2007</u>.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-4,6,7,9,10,31 and 41-43</u> is/are pending in the application.

     4a) Of the above claim(s) <u>41-43</u> is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-4,6,8-10 and 31</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>20080114</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 12/13/07 has been entered.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.   Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nicholls et al. (5,631,827) in view of Boucher et al. (6,976,007).

5.   With respect to Claims 1 and 6: Nicholls discloses the use of a centralized computer

system for the management of shipping (see abstract), comprising:

      a.   A plurality of functionally aligned server computer devices, which are

      programmed to perform a specific function (See figures 2 and 6).

      b.   A first server computer device which is adapted for communicating access of the

      user (Supervisory Server, Figure 6 with corresponding detailed description); and

      c.   A second server used for rating parcels (Rate Server, Figure 6).

6.   Nicholls discloses the use of multiple servers performing specific functions and discloses

tracking as an option (See Figure 2) but fails to disclose the use of a server used for tracking.

Boucher discloses the use of a multi-carrier package tracking system, with a tracking server (22),

which upon receipt of a user tracking request (191) through Instatrac (89), communicates with

the appropriate carrier servers to store tracking information and display to the user (See Column

4, lines 48-65 and Column 8, lines 10-22. It would have been obvious to one having ordinary

skill in the art at the time the invention was made, to modify Nichols with the tracking server in

the multi-carrier tracking system of Boucher, in order to provide a tracking service to a user, and

allows a user to obtain prioritized tracking information from a carrier. (See Boucher abstract and

column 3)

7.   With respect to Claim 3: See Nicholls, Document Server.

8.   With respect to Claim 4: See Nicholls, Figures 4A, 4B.

9.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls and

Boucher, as disclosed above for Claim 1, and further in view of Kara (6,233,568) and

InterShipper (Newsbytes Article, Internet Update)

10.   Nichols discloses a multiple carrier system that calculates rates for carriers with specific

parameters such as a notification of delivery, however Nicholls discloses the automatic selection

of a carrier and fails to disclose simultaneously displaying the rates of the carriers to the user.

Kara discloses a computer program used for multiple shippers that simultaneously displays that

calculate shipping rates of multiple carriers for multiple services (See Figure 8, column 22, lines

20-38). It would have been obvious to one having ordinary skill in the art at the time the

invention was made to have the shipping rates of Nicholls be displayed to the user as disclosed

by Kara, in order to present the user with information from which to make an informed choice as

to a particular shipping service provider by which to ship a particular item. (See Kara, column

22)

11.   Nicholls and Kara, disclose the use of calculating and displaying rates for specific

services, for multiple carriers, but fails to disclose the simultaneous display of the rates for each

carrier for each service. Intershipper is an internet, online website, where internet users can enter

origin, destination, package weight and dimensions and will be displayed every method possible

that you can use to ship your package for all major shippers (See Internet Update Article Page 1,

Paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time

the invention was made to modify Nicholls and Kara to display every method possible to ship a

package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).

12.   Claims 7, 9 and 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Nicholls in view of Kara et al. (6,233,568), UPS® Service Guide (www.ups.com) and FedEx®

Services (www.fedex.com), InterShipper (Newsbytes Article, Internet Update) and Barnett et al.

(6,369,840).

13.   With respect to Claims 7, 9 and 31: Nicholls discloses the use of a centralized computer

system and method for the management of shipping (see abstract), comprising:

         d.   A plurality of functionally aligned server computer devices, which are

         programmed to perform a specific function (See figures 2 and 6).

         e.   A first server computer device which is adapted for communicating access of the

         user (Supervisory Server, Figure 6 with corresponding detailed description) and

         accepting parcel information, See Figures 4A and 4B).

         f.   A second server used for rating parcels for multiple carriers for multiple services

         (Rate Server, Figures 2 and 6).

14.   Nichols discloses a multiple carrier system that calculates rates for carriers with specific

parameters such as a notification of delivery. However, Nicholls fails to disclose that for each

carrier determining whether the carrier would support the shipping of a particular parcel

according to rules, and generating a simultaneous display of rates for multiple carriers for a

delivery service. Kara discloses simultaneously displaying rates for multiple carriers for a

selected delivery service (see Figure 8) and discloses the rates are disclosed for those carriers

meeting the desired parameters (Column 22, lines 13-48). It would have been obvious to one

having ordinary skill in the art at the time the invention was made, to modify Nicholls, to display

the rates for multiple carriers, as disclosed by Kara, in order to allow a user to compare rates and choose a carrier themselves. (see Kara, Columns 3-5).

15.   Kara discloses an onscreen interactive display with a selection and comparison section for a plurality of carriers with a plurality of services (See Figure 8). Kara discloses a display where the rates of each carrier are displayed adjacent to the selected services (See Figures 8A). However Kara does not specifically disclose the rates being calculated with respect to time. Both UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the time sensitive "urgency" services, as disclosed by FedEx® and UPS®, in order to ship thing and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance. (See Fed Ex Page 1). Kara, UPS® and FedEx® fail to disclose the use of a graph which simultaneously displays a graph of shipping fees and services, where one axis being date and one axis being time and where each cell is located at the intersection of the date and time.

16.   Kara and Nicholls disclose generating an online display of at least one service of a plurality of carriers, however fails to disclose the simultaneous display of the rates for each carrier for each service. Intershipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).

17.   Nicholls, Kara, UPS and FedEx disclose calculating the date and time for each service,

and InterShipper discloses arranging the results according to transit time, however fails to

disclose the display including the date and time that is determined for each service calculated.

Barnet discloses the use of a calendar which can be used for online purchasing of services

(column 2, lines 63-67), where there is a graphical representation of date on one axis and time on

another (See Figure 9). It would have been obvious to one having ordinary skill in the art at the

time the invention was made to display the calculation of shipping rates, calculated by Kara,

UPS® and FedEx® and Intershipper, in the format of displaying respective date and time, as

disclosed by Barnett, in order to provide a multi-layers system wherein different categories can

be overlaid on one another providing a single integrated display that allows a user to order or

purchase a system based on the calendar day and time (See Barnett, column 2). The examiner

considers that when the rates are displayed in a matrix, then each of the rates are displayed

adjacent to the axis, and therefore displayed adjacent to the time and date of the service.

18.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls, Kara

and Intershipper as applied to claim 9 above, and further in view of Boucher (6,976,007).

19.   Nicholls discloses the use of multiple servers performing specific functions and discloses

tracking as an option (See Figure 2) but fails to disclose the use of a server used for tracking.

Boucher discloses the use of a multi-carrier package tracking system, with a tracking server (22),

which upon receipt of a user tracking request (191) through Instatrac (89), communicates with

carrier servers to store tracking information and display to the user (See Column 4, lines 48-65

and Column 8, lines 10-22). It would have been obvious to one having ordinary skill in the art at

the time the invention was made, to modify Nichols with the tracking server in the multi-carrier

tracking system of Boucher, in order to provide a tracking service to a user, and allows a user to

obtain prioritized tracking information from a carrier. (See Boucher abstract and column 3)

Response to Arguments

20.   With respect to Applicant's argument that the server of Boucher uses the same server as

the shipping server, therefore does not teach the limitation of a third server which performs the

tracking: As stated in the office action, Nicholls discloses the use of server, and separate servers

are used for each task, such as separate tracking server. Therefore even though Boucher

discloses the tracking can be done using the same server as the shipping server, it is Nicholls

who discloses the separating out of functionally aligned servers. Furthermore, whether there is

one server which performs all the functions, or each function is performed using separate servers

is considered to be obvious to of ordinary skill in the art. And the use of functionally aligned

servers, and the use of one super computer, has been done at the time the invention was made,

therefore whether to make the servers integral or separate is considered to be at the skill of one

ordinary skill in the art.

21.   With respect to Applicant's argument that Boucher does not disclose accessing a carrier

system: Information in the Instatrac is used in Boucher to contact the carrier and receive update

tracking information. The examiner considers this to be accessing a carrier system. When the

request is first made, the tracking information is entered into the Instatrac, then the system

determines a carrier, accesses the carrier system and obtains the status information. This

accessing and obtaining data is then done automatically. The applicant has stated that it is

inappropriate to dissect the claims into old and new elements and then to ignore the presence of

the old elements in the analysis. However the examiner has not ignored any limitations of the

claims, all limitations were considered. But due to the wordiness of the claims, the examiner has

paraphrased the claim limitations in the rejection, which the examiner is allowed to do for

clarity's sake. If the applicant feels a specific limitation has not been considered the examiner

invites the applicant to point out the *specific* limitation which is not being considered. The

applicant has recited a whole entire paragraph which was recited in the claims and states that not

every limitations was considered, however the applicant should point out which specific

limitation of the paragraph which was not considered, not merely the entire paragraph.

22.   With respect to Claim 2: the examiner has modified the rejection to cover the

simultaneous display feature, therefore arguments are considered to be moot.

23.   With respect to Claims 7, 9, 10 and 31: the applicant has amended the claims to recite the

use of determining a date and time for each rate. The rejection above has been modified to cove

r the newly added claim limitations, therefore the arguments are considered to be moot in view

of the new rejection.

Conclusion

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-

6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jp   /Jamisue A. Plucinski/
                                                        Primary Examiner, Art Unit 3629